

**DECISION**



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**THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D.C. 20548**

**FILE:** B-211236

**DATE:** July 25, 1983

**MATTER OF:** Telex Communications, Inc.

**DIGEST:**

Where protester inserts two sets of prices for option quantities (lower price if all options are exercised), agency evaluation of higher individual option prices was proper because if agency does not exercise all options, higher prices would be paid. To evaluate on lower all or none prices would introduce uncertainty as to whether bid was actually lowest.

Telex Communications, Inc. (Telex), protests the award of a contract for antenna systems to D.H.V., Incorporated (DHV), under invitation for bids (IFB) No. DAAK21-82-B-9861, a two-step, formally advertised procurement conducted by the United States Army, Harry Diamond Laboratories (Army). Telex contends that after its technical proposal was found technically acceptable, it submitted the lowest bid, which the Army improperly rejected as nonresponsive.

We deny the protest.

The IFB required the submission of a price for a basic quantity of five contract line items (CLIN's) plus a price for five option CLIN's. The option CLIN's consisted of additional quantities of different antenna systems with varying configurations. The solicitation provided in section M.2(a) that bids would be evaluated by adding the total price for all option quantities to the total price for the basic quantity, but that evaluation of options would not obligate the Government to exercise the options. Thus, the Army explicitly reserved the right to purchase all of the options, none of the options, or an intermediate quantity of the options. A note to this section provided that:

"Bidders offering option quantities at unit prices that differ from the unit prices for the basic contract unit prices shall also state that varying prices may be offered for the option quantities depending on the quantities actually ordered and the date or dates when ordered."

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Telex submitted a bid which contained one set of prices totaling \$184,748 for the basic CLIN's and two sets of prices for the option CLIN's. Telex prefaced one set of option CLIN prices with a note that:

"Pricing marked with an asterisk and entered on Page B.2 is contingent upon the exercise of all options, line items 0006, 0008, 0009, and 0010. This allows the contractor to realize lowest possible costs due to higher volume purchases and manufacturing and to pass these lower costs on to the Government. This pricing has been developed IAW Para. M-2, of the solicitation where it is stated that bids and proposals will be evaluated for purposes of award by adding the total price for all option quantities to the basic quantity."

"If option line items are exercised individually, the following pricing applies \* \* \*:"

Telex's other set of CLIN option prices on pages B.2 of its bid had asterisks next to four of the five CLIN's and indicated at the bottom of the page that for the asterisked prices, reference should be made to the other page of prices.

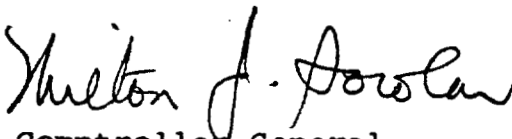
Thus, in effect, Telex offered one set of prices for any quantity of CLIN options and another set of prices for the CLIN options on an all or none basis. The all or none option price total was \$214,743; the alternate unrestricted option price total was \$278,368. Since Telex's price of \$184,748 for the basic CLIN's remained the same regardless of the quantity of option CLIN's awarded, Telex's total price for base plus option quantities was \$399,491 with the options priced on an all or none basis and \$463,116 if the options were not priced as all or none. The Army considered only the higher Telex bid to be responsive and determined that DHV's bid of \$439,275 was low. DHV had bid \$205,195 for the basic CLIN's plus \$234,080 for the option CLIN's. The Army made an award to DHV for the basic CLIN's.

The Army contends that Telex's lower bid was properly rejected as nonresponsive because it attempted to modify the previously noted IFB requirement concerning the Government's right to exercise the options without being obligated to do so. The contracting officer also asserts that

the previously quoted solicitation note to section M.2 was intended only to caution prospective bidders that an item priced higher as an option than in the basic quantity would be evaluated at the higher price for all quantities. We are unable to derive this meaning from the note. Rather, while the note is unclear at best, we find more plausible the protester's interpretation of the note which is that the bidder is being asked to provide alternate prices for various different option quantities.

Nevertheless, we cannot reach the conclusion argued by Telex that the Army had to consider the all or none price. On the contrary, we find that Telex's all or none bid could not be considered in the evaluation. While the IFB stated that price would be determined on the basis of the total for the basic quantity plus all options, the IFB also expressly reserved the right of the Army not to exercise all of the options. Thus, all bidders were on notice that the Army might well elect to order a quantity less than the total, and the price evaluations would have to reflect this possibility. Accordingly, in view of the reservation, the Army was entitled to evaluate Telex's bid on the basis of the total of the Telex prices offered for the option quantities individually, rather than on the all or none price. To require the Army to evaluate the bid as Telex proposes would, in effect, introduce uncertainty as to whether Telex's bid was actually the lowest received.

We deny the protest.

*for*   
Comptroller General  
of the United States